

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Social Welfare — Appeal petition of Sri K. Venkateswarlu, S/o Venkata Ramudu filed against the Cancellation of Scheduled Caste (Adi-Andhra) Certificate by the District Collector, Anantapur vide Proceedings, dated: 12-04-2002 - Appeal rejected – Orders – Issued.

SOCIAL WELFARE (CV-I) DEPARTMENT

G.O.Ms.No. 89

Dated:13-12-2010.

Read the following:

1. Proceedings of the District Collector, Anantapur, Rc.No.MC3/1108/ 2001, dated: 12-4-2002.
2. Appeal Petition filed by Sri. K. Venkateshwarlu, Guntakal Mandal, Anantapur District, dated; 30-01-2003.
3. Govt. Memo No.2105/CV.1/2003-1&8, dated: 2-7-2003 & 19-09-2009.
4. From the District Collector, Anantapur, Rc. No. MC3/1108/ 2001, Dated: 16-10-2009.
5. Govt. Letter No.2105/CV.1/2003-12&14, S.W.Dept., dated: 02-3-2010 & 14-07-2010.
6. Govt Lr.No. 2105/CV.1/2003-15, S.W.Dept., dt 12-08-2010.
7. From the Divisional Railway Manager (P) South Central Railway Guntakal Lr.No.G/P.171/CV.1/KVR (Rtd.), dated: 03-09-2010.

ORDER:

The District Collector, Anantapur has cancelled the Scheduled Caste (Adi-Andhra) Certificate of Sri K.Venkateswarlu vide reference 1st read above.

Aggrieved by the proceedings of the District Collector, Anantapur, Sri K.Venkateswarlu, S/o Venkata Ramudu filed an Appeal petition before Government vide reference 2nd read above and submitted the following facts and grounds in support of his claim.

1. The appellant's late father Sri K.Venkata Ramudu belongs to Scheduled Caste Community. He married appellant's mother Laxmamma belonging to Padmashali Community which is recognized as BC-B Community. His father was recognized as a member belongs to Scheduled Caste Community through out his life time. He served as Grade I fitter in South Central Railway and retired from service in the year 1996 on attaining the age of superannuation. Unfortunately his father died soon after his retirement in the year 1996 itself. His employer Viz., Indian Railways recognized his father as a member belonging to Schedule Caste Community and he was advanced the benefits meant for the said Community.
2. Through out his educational carrier the appellant was recognized as a member belongs to Schedule Caste Community. The competent authorities issued certificate certifying that he belongs to Scheduled Caste Community from time to time. Before issuing the said certificate the competent authority held due enquiry as contemplated under law.

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3. The Joint Collector, Ananthapur and Chairman of DLSC issued a notice dated 16-11-2001 directing him to attend the enquiry regarding his community claim on 03-12-2001. In the said notice it stated that a complaint had been received by him that the appellant obtained a false community certificate. He made preparations to attend the enquiry on 3-12-2001 and to seek reasonable time for producing oral and documentary evidence in support of his claim. To his misfortune, he suffered from severe fever from 30-11-2001 onwards. He was taking treatment from Sri Sai Krupa Clinic, Adoni. 1st and 2nd December of 2001 happened to be holidays being Saturday and Sunday. Therefore he was granted sick leave on 3-12-2001 and 4-12-2001 since he has suffered from after effects he was advised further rest. Consequently, he could not be present on 3-12-2001 before the 3rd respondent.
4. On 21.2.2002 he left for Proddutur in Kadapa District to attend a ceremony in the house of his brother-in-law. To his misfortune, on 22.2.2002 he fell ill on account of viral fever and he was unable to move. Therefore he was taking treatment from Dr.S.Laxmi Narsaiah, Srinivasa Nursing Home from 22.2.2002 to 27.2.2002. The 3rd respondent issued a notice dated 14.2.2002 directing him to attend the enquiry on 25.2.2002. Since he was laid down at Proddutur he could not attend the office of 2nd respondent on the said date.
5. The 2nd respondent issued a notice dated 27.2.2002 directing the appellant to attend for the enquiry on 7.3.2002. Since he was very weak on account of after effects of medication he was unable to undertake journey to Ananthapur from Adoni in Kurnool District where he was working. Consequently he could not attend the office of 2nd respondent on 7.3.2002. After his reaching Adoni from Proddutur once again he suffered Kidney disorder due to diabetes and he was admitted as inpatient on 25.2.2002.
6. In view of the precarious health conditions he could not approach the office of 3rd respondent to verify the next date of enquiry. To his utter surprise, the 2nd respondent communicated an order in his proceedings Rc.No. MC3/1108/2001 dated 12.4.2002 canceling his Scheduled Caste Certificate basing on the report of DLSC, the 3rd respondent herein.
7. The appellant filed WP.No. 9746 of 2002 before the Hon'ble High Court of A.P., questioning the order passed by the 1st respondent dated 12.4.2002 canceling the caste certificate. The Hon'ble High Court while admitting the writ petition suspended the order of the Collector in W.P.M.P. NO. 11983 of 2002 dated 22.5.2002. The Hon'ble High Court is pleased to dispose of the writ petition by an order dated: 06-01-2003 permitting the appellant to file the appeal within 4 weeks. The Hon'ble High Court is also pleased to continue the interim orders pending disposal of the appeal. Hence this appeal. The order passed by the 1st respondent in his proceedings Rc.No. MC3/1108/2001 dated 12.4.2002 canceling the caste certificate of the appellant is illegal, arbitrary, unjust and violative of principles of natural justice for the following and among other.
 - a) The order of the 1st respondent (the District Collector, Anantapur) canceling the caste certificate basing on the report of the 2nd respondent (District Level Scrutiny Committee) without holding any enquiry is not sustainable as violative of the principles of natural justice.

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- b) The 2nd respondent did not follow the mandatory procedure prescribed under rule 8(d) (4) to (7) of the A.P., S.Cs, S.Ts., and BC's Issue of Community, Nativity and Date of Birth Certificates rules, 1997 by examining the report of enquiry conducted by the Revenue Department and also the expert opinion from the Commissionerate of Social Welfare department.
 - c) The 1st respondent issued the impugned orders basing on the recommendation of the 2nd respondent and the 2nd respondent in turn sent its recommendation basing on the report of MRO and the MRO in turn prepared the report basing on the statement of VAO. Neither the 2nd respondent nor MRO conducted any enquiry. Hence the impugned order is contrary to the Provisions of the Act and the rules made there under.
 - d) The respondents 1 &2 having observed that the petitioners father was working as mechanic in Railway department failed to make any attempt to call for the service records of his father to verify the community of the petitioner's father as per the official records.
 - e) The 2nd respondent did not hold any enquiry as prescribed under 8(d) (4) and (5) before sending its recommendation to the 1st respondent.
 - f) The 1st respondent failed to consider that the petitioner failed to participate in the enquiry due to health hazards and he was prevented to appear before the 2nd respondent for the reasons beyond his control. Therefore the 1st respondent ought to have directed the 2nd respondent to hold enquiry in accordance with rules.
 - g) The respondents failed to consider that the petitioner was recognized through out his service as a member belonging to SC community.
 - h) The order of the 1st respondent is based on surmises and assumptions.
 - i) Even if the petitioner was not present before the 2nd respondent, a duty is caste on the committee to hold an exparte enquiry. But the 2nd respondent sent its recommendations without holding even exparte enquiry but basing on the VAOs statement.
8. The appellant has been working as Senior Assistant in National Insurance Company Limited for the last 15 years. He has not been granted any further benefit on the basis of his community. He has to maintain his wife, aged mother and two school going children. On account of the impugned orders passed by the 1st respondent the appellant would loose his employment resulting in the displacement of his family. Therefore it is just and necessary to set aside the order passed by the 1st respondent canceling his caste certificate.

Government have admitted the appeal petition and requested the District Collector, Anantapur vide reference 3rd read above to furnish parawise remarks and connected records for disposal of the Appeal petition.

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The District Collector, Anantapur has furnished the relevant records and following Para wise remarks vide reference 4th read above on the Appeal petition filed by Sri K.Venkateswarlu:

The petitioner at no point of time, during the process of enquiry has reported that his father namely Late Sri.Venkata Ramudu who was recognized as a member of Scheduled Caste. The petitioner in a statement deposed before the village Administrative officer of Thimmanacherla Village of Guntakal Mandal has stated that the father and mother and their family members belongs to Padmasali Caste which comes under BC-B. Hence the contention of the appellant in this regard is not correct.

Three opportunities were given to the petitioner to offer his explanation and defend the case. But the petitioner has not turned up either for enquiry or offered his explanation. The petitioner has not even informed that he could not attend for enquiry due to ill health. Hence, the contention of the petitioner that he could not attended for enquiry due to ill health is not correct and created for the purpose of the case.

The District Level Scrutiny Committee Ananthapur has taken up an enquiry into the matter duly providing the enquiry material of the Mandal Revenue Officer, Guntakal to offer his explanation. The District Level Scrutiny Committee has also given reasonable opportunity to the petitioner to represent his case with any valid recorded proofs if any in support of his claim. Three opportunities were provided to the petitioner to offer his explanation and defend the case. But the petitioner never attended for enquiry. After examining the case in detail the DLSC has recommended for cancellation of the caste certificate Adi-Andhra (S.C.) hold by the petitioner. Again copies of the District Level Scrutiny Committee findings were supplied to the petitioner vide notice Rc. MC3/1108/01, dated 26-03-2002 to offer his explanation.

The petitioner in reply to the notice dated: 26-3-2002 has submitted his explanation stating that his father joined him in the school with caste entry Adi – Andhra (S.C.) and the same was continued up to the college level. His father was not taken any care about his life as he is having bad habits. He was brought up by his mother from child hood. The appellant finally requested the Collector, Ananthapur to save his life as he is having old age widow mother, wife and two kids. In fact the appellant indirectly admitted in his explanation that he belongs to Padmasali (B.C.) Caste by seeking excuse and save his life. It is therefore contention of the petitioner in this regard cannot be believed.

The District Level Scrutiny Committee (second Respondent) holds the enquiry in accordance with law as such it is not correct to state that the enquiry conducted is not proper.

This is a clear case in which a non-Scheduled Caste person enjoying the benefits of the S.C. candidate duly obtaining a fraudulent caste Certificate and got employment in National Insurance Company Limited. As per the enquiry his father, his mother, his wife, father of his wife and other kith and kin of the petitioner belongs to Padmasali Caste B.C-B and beyond any reasonable doubt established the fraud committed in this case.

The case was posted for hearing on 18-01-2010, 15-02-2010 & 22-03-2010 before the Appellate authority and the appellant was present and argued the case and submitted a copy of his father Service Certificate (Sri K.Venkata Ramudu) which was given by the Employer i.e. South Central Railway, Guntakal Division.

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In the reference 6th read above, while furnishing the Original Service Certificate of Sri.K.Venkataramudu F/o the petitioner, to the Asst. Personnel Officer (Mech.) O/o the Divisional Railway Manager(P) South Central Railway, Guntakal Division was requested to confirm whether the Original Service certificate of Sri K.Venkata Ramudu is genuine one or not.

In the reference 7th read above, the Divisional Railway Manager (P) South Central Railway, Guntakal has stated that on verification of the Service Register of Sri.K.Venkata Ramudu Ex. C&W Fitter/Grade-I, in the Nationality/Caste/Religion Column, it has been mentioned only as "Hindu" and same has been indicated in the original Service Certificate of the retired employee as "Indian Hindu" which was issued in his favour at the time of his retirement and also stated that the entire text of the Service Certificate has been altered/overwritten and tampered after issue of the Service Certificate to the above retired employee.

6. After examination of the proceedings of the District Collector, Anantapur, appeal petition, Original Service Certificate of his father and material available with the Government, it is observed that, Sri K.Venkateswarlu does not belong to Scheduled Caste (Adi-Andhra) Community.

7. The Government, in exercise of the powers conferred u/s 7 of Act No 16 of 1993, decided that the appeal petition filed by Sri K.Venkateswarlu does not deserve any interference. Hence, Proceedings of the District Collector, Anantapur issued vide Rc.No.MC3/1108/ 2001, dated: 12-4-2002 in detail are considered and the appeal of Sri K.Venkateswarlu is hereby rejected.

.8. The District Collector, Anantapur is requested to launch prosecution for the false claim.

9. The records furnished by the District Collector, Anantapur vide reference 4th read above (containing pp. 01-269 c.f.) are returned herewith and he is requested to acknowledge the receipt of the same at an early date.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

J.RAMOND PETER

PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector,
Anantapur (w.e)
(With original records)
Sri K. Venkateswarlu, Sr. Asst.,
National Insurance Company Ltd.,
Branch Office, Goshal Hospital Road,
Adoni, Kurnool District – 518 360.
(With Original Service Certificate of
Sri K.Venkata Ramudu)

Copy to:

The P.S. to M (SW)
The P.S. to Principal Secretary (SW)
SF/SC.

//Forwarded: by Order//

Section Officer